Dated 21st April 1976

Ordered that the Levy Sugar Price Equalisation Fund Act, 1976 (Central Act No. 31 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 16th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO
Under Secretary to Government,
Department of Law and Parliamentary Affairs.

Assented to on 16-2-76 [illegible]t No. 31 of 1976

THE LEVY SUGAR PRICE EQUALISATION FUND ACT 1976

AN ACT

to provide for the establishment, in the interest of the general public, of a fund to ensure that the price of levy sugar may be uniform throughout India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Levy Sugar Price Equalisation Fund Act, 1976.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(*a*) "controlled price" means the price of the relevant grade of levy sugar, determined from time to time under sub-section (3C) of section 3 of the Essential Commodities Act, 1955 (10 of 1955) or under the Defence and Internal Security of India Rules, 1971, in relation to any year of production;

(*b*) "excess realisation" in relation to each grade of levy sugar,—

(i) means the price realised by any producer, on the sale of levy sugar of such grade, in excess of—

(*a*) the controlled price, or

(*b*) Where any fair price has been fixed by a court for levy sugar of such grade, such fair price, and

(ii) includes any realisation representing the difference between the controlled price and the price allowed by the court by an interim order, if such interim order is set aside, whether by the court which made the order or in appeal or revision ;

(*c*) "fair price" in relation to levy sugar, means the price fixed by the court in excess of the controlled price, and where an interim price, fixed by the court, is superseded by a price which is finally fixed by the court, the price so finally fixed ;

(*d*) "Fund" means the Levy Sugar Price Equalisation Fund, established under Section 3 ;

(*e*) "levy sugar" has the meaning assigned to it in the Levy Sugar Supply (Control) order, 1972, published with the Order of the Government of India, in the late Ministry of Agriculture (Department of Food), No. GSR 310 (E), /Ess. Com./Sugar, dated 15th June, 1972 ;

(*f*) "Prescribed" means prescribed by rules made under this Act ;

(*g*) "producer" means a person carrying on the business of manufacturing sugar by the vaccum pan process.

3. *Levy Sugar Price Equalisalion Fund.*—(1) There shall be etsablished a Fund, to be called the Levy Sugar Price Equalisation Fund.

(2) Save as otherwise provided in sub-section (4), there shall be credited to the Fund, in such manner as may be prescribed,—

(*a*) the amounts representing all excess realisations made by the producers, irrespective of whether such excess realisations were made before or after the commencement of this Act ;

(*b*) the amounts representing any loans which may be advanced, or grants which may be made by the Central Government for carrying out the objects of the Fund.

(3) Save as otherwise provided in sub-section (4). every producer shall.—

(*a*) in the case of an excess realisation made before the commence ment of this Act, within thirty days from such commencement.

(*b*) in the case of an excess realisation made after such commencement, within thirty days from the date on which such excess realisation was made, credit to the Fund, the amount representing such excess realisations, together with interest due thereon at the rate of twelve and a half per cent. per annum, from the date on which such amount was realised by him.

(4) Where, by virtue of any interim order made by any court, whether before or after the commencement of this Act,—

(*a*) amounts representing the difference between the controlled price and price allowed by any court by an order made in this behalf, have been, or are required to be,—

(i) Kept with the producer himself, or

(ii) Kept deposited with, or in the custody of, any court, or

(iii) kept deposited with, or in the custody of, any Government, bank, authority or other person; or

(*b*) any amount in excess of the controlled price has been collected and kept by the producer under the cover of any guarantee given in pursuance of such order,

it shall not be necessary to credit such amounts to the Fund so long as the court which passed the interim order does not so direct.

(5) Where, in pursuance of an interim order referred to in sub-section (4) any amount representing the difference between the controlled price and the interim price allowed by the court is,—

(*a*) held by any producer either with himself or with any other person or with any court, Government, bank or other authority, or

(*b*) collected and kept by the producer under the cover of any guarantee,

such producer shall, on the final disposal of the proceedings of the court aforesaid, or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund.

(6) For the removal of doubts, it is hereby declared that the obligation to credit amounts representing excess realisations to the Fund shall be in addition to any penalty which may be imposed for the contravention of any provision of this Act.

(7) The Fund shall be administered, subject to the provisions of section 8, by the Central Government.

4. *Determination of questions as to making of excess realisations.*— If any question arises as to whether any producer has realised, on the sale of levy sugar, any amount in excess of the controlled price, or as the case may be, the fair price, it shall be decided by the Central Government after giving an opportunity to such producer of being heard and after making such inquiry as that Government may deem fit.

5. *Discharge of persons of liability in respect of amounts credited to the Fund.*—Where any amount is credited to the Fund under section 3, the producer by whom such amount is credited shall, upon such crediting, be discharged from the liability to make repayment of such amounts to the persons entitled thereto and such discharge from liability to make repayment shall be without any prejudice to any penalty which may be imposed on such producer for each excess realisation made by him.

6. *Right of buyer to claim refund* :—(1). Where any amount is credited to the Fund, a refund shall be made from the Fund to the buyer of levy sugar from whom any excess realisation was made by the producer or dealer :

Provided that no buyer shall be entitled to claim a refund under this sub-section if he,—

(a) being a wholesale dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the retail dealer by whom the price of such sugar was paid, or

(b) being a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the consumer by whom the price of such sugar was paid.

(2) Every application for refund under sub-section (1) shall be made to the Central Government within six months from the date on which the excess realisation in relation to which such refund is claimed, is credited to the Fund and every such application shall be in such form as may be prescribed and shall be accompanied by such documentary or other evidence as the applicant may furnish to establish that the excess realisation, in relation to which such refund is claimed, was made from him.

(3) The Central Government shall if satisfied on a scrutiny of the claim made under sub-section (1), that an excess realisation was made from the claimant, direct that refund be made from the Fund to the claimant to the extent of the excess realisation made from him :

Provided that if the amount standing to the credit of the Fund is not sufficient to enable the Central Government to make the refund, such refund shall be made from the Central revenues.

7. *Excess realisation not to be paid to any producer of sugar.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, no amount, representing excess realisations made by a producer or excess realisations made by a producer under the cover of any guarantee given by any person shall be paid to any Producer.

8. *Fund to vest in the Central Government.* (1) Any money paid into the Fund which remains unclaimed after the expiry of the period of six months from the date on which it is credited to the Fund, shall vest in the Central Government and such amount shall be utilised by that Govt. in such manner as may be prescribed having regard to the interest of the consumers of levy sugar as a class and the need to ensure that the retail price of levy sugar throughout India is uniform :

Provided that, notwithstanding the vesting of such money in the Central Government, a claim for the refund of money standing to the credit of the Fund may be made [in the manner specified in sub-section (2) of section 6] at any time by a buyer who is lawfully entitled to make such claim, and every such claim, if admitted, shall be dealt with as if the money relatable to such claim had not vested in the Central Government.

(2) The Central Government shall not grant any loan or given any financial assistance from the Fund except for the purposes of this Act.

(3) The Central Government shall maintain, or if it thinks fit specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be Prescribed in consulatation with the Comptroller and Auditor General of Indi

9. *Power to require Producers to maintain accounts etc.*; he Central Government may, if it is satisfied that it is expedient : necessary so to do for carrying out the provisions of this Act, by an :der, direct any producer to maintain such books of account and other :cords in relation to levy sugar as it may think fit and to produce such ooks of account and other records for inspection and may also direct such roducer to furnish such information relating to levy sugar as may bo pecified in the order.

0. (1) *Power of entry, search and seizure.* (1)Any authority specified by the entral Government in this behalf may, if it is satisfied that any provision f this act has been or is being or is about to be, contravened, authorise ny person to enter and search any premises where any accounts, books, egisters and other documents relating to levy sugar and belonging to, or nder the control of, a producer or his agent, are maintained or kept for afe custody.

(2) The person so authorised may seize any such accounts, books, egisters or other documents if he has any reason to belive that a contra- ention of this Act has been, or is being or is about to be, committed :

Provided that the accounts, books, registers or other documents seized nder this section shall not be retained in custody of the Central Govern- ent for a period exceeding ninety days :

Provided further that where such accounts, books, registers nd other documents are required for the purposes of any prosecution, hey may be retained in the custody of the Central Government for a rther period, not exceeding ninety days, for the purposes of such pro- ecution. (2 of 1974.)

(3) The provisions of the Code of Criminal Procedure, 1973 , relating o searches and seizures, shall so far as may be, apply to searches and eizures made under this Act.

11. *Power of Central Government to recover excess realisations as arrears f land revenue.*—If any producer makes any default in crediting to the und any excess realisations made by him or any part thereof, uch excess realisations or such part as the case may be shall be recoverable y the Central Government from such producer as an arrear of land revenue.

12. *Dissolution of the Fund.*—The Central Government may, by otification in the Official Gazettee, declare that, with effect from such ate as may be specified in the notification, the Fund , shall ease to exist and thereupon all the amounts lying to the credit of the und shall be credited to the Central revenues and refund, if any, made, y the Central Government, after such cesser, to any buyer of levy ugar shall be treated as an order for

13. (1) If any producer—

(a) makes any default in credi ations made by him or any part thereof, or

(b) having been required by the Central Government so to do, mits or fails to—

(i) maintain any books, accounts or other records in relation to levy sugar or

(ii) produce any books, accounts or other records for inspection, or

(iii) furnish any information or furnishes any information which is incorrect or false in material particulars,

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) No court shall take cognizance of any offence punishable under this Act except on the complaint in writing made by the Central Government or by any Officer or authority authorized, in writing by that Government in this behalf.

14. *Removal of difficulties.* If any difficulty arises in giving effect to any provision of this Act, the Central Government may make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary to remove the difficulty.

15. *Protection of action taken in good faith.* No suit, prosecution or other legal proceedings shall lie against the Central Government or any person authorised by the Central Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

16. *Power to make rules.* (1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which amounts shall be credited to the Fund under section 3 ;

(b) the form in which an application for refund, referred to in section 6, shall be made ;

(c) the manner in which amounts standing to the credit of the Fund shall be utilised, as required by section 8 ;

(d) the form in which the account and the relevant records, referred to in sub section (3) of section 8, shall be maintained ;

(e) any other matter in relation to which such rules are required to be, or may be, made.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.